

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE HERNANDEZ-CARBAJAL,)	
)	
Petitioner,)	
)	
v.)	1:00CR297-1
)	1:17CV1057
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on November 8, 2018, was served on the parties in this action. (Docs. 56, 57.) Petitioner thereafter filed a Second Motion for Due Process seeking a ruling on his Section 2255 Motion (Doc. 58) and objected to the Recommendation (Doc. 59).

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a *de novo* determination, which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that the United States' Motion to Dismiss (Doc. 52) is granted, and that Petitioner's Amended Section 2255 Motion (Doc. 48) is DISMISSED.

IT IS FURTHER ORDERED that Petitioner's Second Motion for Due Process (Doc. 58) is DENIED AS MOOT.

A Judgment dismissing this action will be entered contemporaneously with this Order.

Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is DENIED.

/s/ Thomas D. Schroeder
United States District Judge

December 11, 2018